

Docket No.: 00467/100M163-US1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Stephen Russak et al.

Application No.: 10/722,590

Confirmation No.: 5682

Filed: November 25, 2003

Art Unit: 2859

For: AXILLARY THERMOMETER

Examiner: G. K. Verbitsky

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (IDS)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. 1.97, 1.98, and it is requested that the information set forth in this statement and in the listed documents be considered during the pendency of the above-identified application, and any other application relying on the filing date of the above-identified application or cross-referencing it as a related application.

1. This IDS should be considered, in accordance with 37 C.F.R. 1.97, as it is filed:  
(Check one of the boxes A-D)

- ☐ A. within three months of the filing date of the above-identified national application or within three months of the entry into the national stage of the above identified national application
- ☐ B. before the mailing date of a first office action on the merits, or a first office action after filing a request for continued examination.
- ☐ C. after (A) and (B) above, but before final rejection or allowance, and Applicants have made the necessary statement in box "i" below or paid the necessary fee in box "ii" below.

(check one of the boxes "i" and "ii" below:)

- ☐ i. Counsel states that, upon information and belief, each item of information listed herein was (check one of boxes (a) or (b))
- ☐ (a) first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or
- ☐ (b) not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.
- ☐ ii. A check for the fee set forth in 1.17(p), presently believed to be \$180, is enclosed.
- ☒ D. after (A), (B) and (C) above, but before payment of the issue fee: Applicant petitions under 37 C.F.R. 1.97(d) for the consideration of this IDS. Under 37 CFR 1.17(i) a check in the amount of \$180.00 is enclosed. Counsel certifies that, upon information and belief, each item of information listed herein was

(check one of the boxes "a" and "b" below:)

- ☒ (a) first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or
- ☐ (b) was not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

2. In accordance with 37 C.F.R. 1.98, this IDS includes a list (e.g., form PTO/SB/08) of all patents, publications, or other information submitted for consideration by the office, either incorporated into this IDS or as an attachment hereto. A copy of each document listed is attached, except as explained below.

(check boxes A, B and/or C and fill in blanks, if appropriate.)

- ☒ A. Pursuant to the 37 C.F.R. § 1.98(a)(2)(ii), a copy/copies of the U.S. **Patent(s) and/or U.S. Patent Application Publication(s)** on PTO/SB08 is/are not being submitted.
- ☐ B. Document(s) \_\_\_\_\_ is (are) deemed substantially cumulative to document(s) \_\_\_\_\_, and, in accordance with 1.98(c), only a copy of each of the latter documents is enclosed.
- ☐ C. Certain documents were previously cited by or submitted to the Office in the following prior applications, which are relied upon under 35 U.S.C. 120:

<<INSERT SERIAL NO. & FILING DATE>>


Applicant identifies these documents by attaching hereto copies of the forms PTO-892, PTO-1449 and/or PTO/SB/08 from the files of the prior application(s) or a fresh PTO/SB/08 listing these documents, and request that they be considered and made of record in accordance with 1.98(d). Per 37 CFR 1.98(d), copies of these documents need not be filed in this application.

- ☒ 3. Cite No. BA is not in the English language. In accordance with 1.98(c), Applicant states:
- ☒ An English translation of each document (or of the pertinent portions thereof), or a copy of each corresponding English-language patent or application, or English-language abstract (or claim) is enclosed.
- ☐ The requirement for a concise explanation of the relevance of any foreign language document is satisfied by the attached search report; citation of the documents cited in the search report shall not be construed as an admission that they are or are considered to be, material to patentability of the subject matter claimed herein (See MPEP §609).
- ☐ A concise explanation of the relevance of document(s) \_\_\_\_\_ is set forth as follows: [Insert concise explanation of relevance]
- ☐ A concise explanation of the relevance of document(s) \_\_\_\_\_ can be found on page(s) \_\_\_\_\_ of the specification.
- ☐ A concise explanation of document(s) \_\_\_\_\_ can be found on the attached sheet.

- [A Spanish Search Report, dated November 13, 2006, which issued during the prosecution of Spanish Application No.200401461 which corresponds to the present application.]

Early and favorable consideration is earnestly solicited.

Dated: January 31, 2007

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Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>			<b>Complete if Known</b>		
			Application Number	10/722,590-Conf. #5682	
			Filing Date	November 25, 2003	
			First Named Inventor	Stephen Russak	
			Art Unit	2859	
			Examiner Name	G. K. Verbitsky	
Sheet	1	of	1	Attorney Docket Number	00467/100M163-US1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number Number-Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	AA*	US-20040170216-A1	02-09-2004	Russak et al.	
	AB*	US-5,401,100-A	03-28-1995	Thackston et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
	BA	JP-02262025-A	10-24-1990	Aiba Kazuhide		
	BB	WO-9721081	06-12-1997	Polymedica Ind Inc		
	BC	WO-9859227-A1	12-30-1998	Exergen Corp		

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	CA	Spanish Patent and Trademark Office Report on the State of the Art for Spanish Application No. 200401461, dated November 13, 2006.	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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OFICINA ESPAÑOLA  
DE PATENTES Y MARCAS

ESPAÑA

②① N.º solicitud: 200401461

②② Fecha de presentación de la solicitud: 15.06.2004

③② Fecha de prioridad:

## INFORME SOBRE EL ESTADO DE LA TECNICA

⑤① Int. Cl.: **A 61B 5/01** (2006.01)  
**G01K 13/00** (2006.01)

## DOCUMENTOS RELEVANTES

Categoría	Documentos citados	Reivindicaciones afectadas
E	US 20040170216 A1 (RUSSAK, S. et al.) 02.09.2004, reivindicaciones 1-21; figuras.	1-21
Y	JP 02262025 A (AIBA, K.) 24.10.1990, todo el documento.	1-21
Y	WO 9721081 A1 (POLYMEDICA INDUSTRIES, INC.) 12.06.1997, todo el documento.	1-21
A	WO 9859227 A1 (EXERGEN CORPORATION) 30.12.1998, resumen; página 4, líneas 26-35; figura 1.	1-21
A	US 5401100 A (THACKSTON, T. et al.) 28.03.1995	

### Categoría de los documentos citados

X: de particular relevancia

Y: de particular relevancia combinado con otro/s de la misma categoría

A: refleja el estado de la técnica

O: referido a divulgación no escrita

P: publicado entre la fecha de prioridad y la de presentación de la solicitud

E: documento anterior, pero publicado después de la fecha de presentación de la solicitud

### El presente informe ha sido realizado

☒ para todas las reivindicaciones

☐ para las reivindicaciones nº:

Fecha de realización del informe

Examinador

Página

# EUROPEAN PATENT OFFICE

## Patent Abstracts of Japan

PUBLICATION NUMBER : 02262025  
PUBLICATION DATE : 24-10-90

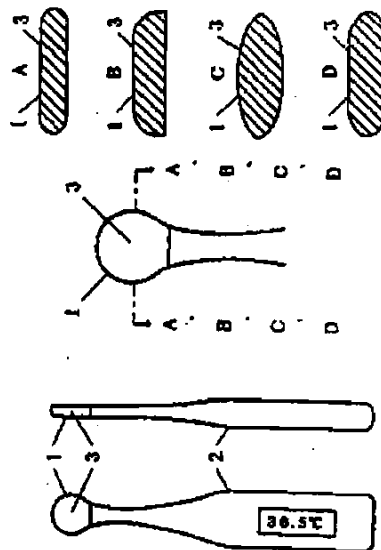
APPLICATION DATE : 31-03-89  
APPLICATION NUMBER : 01082985

APPLICANT : AIBA KAZUHIDE;

INVENTOR : AIBA KAZUHIDE;

INT.CL. : G01K 5/22 A61B 5/00

TITLE : CLINICAL THERMOMETER WITHOUT PAIN AND CLINICAL THERMOMETER WITH WHICH CHILD IS NOT BORED



ABSTRACT : PURPOSE: To measure the temperature of a body without pain for children and babies by providing a constitution wherein the tip part and the temperature sensing part of a clinical thermometer is made flat, and roundness is provided.

CONSTITUTION: A tip part 1 and a temperature sensing part 3 of a clinical thermometer are made flat, and roundness is provided. The flat shape is referred to depressed state in various shapes as shown in figures A - D on the contrary to the cross section of the tip part of a conventional clinical thermometer having a circular shape. The roundness is not limited to a circular shape, but the shape whose tip is not pointed can be used. Since the tip part 1 of the clinical thermometer such as this does not stick the armpit, the temperature of the body can be measured without pain for children and babies.

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